

**James Madison to Edmund Randolph, May 29, 1782.
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TO EDMUND RANDOLPH.¹

1 From the Madison Papers (1840).

Philadelphia, May 29, 1782.

Dear Sir, —I wrote you yesterday morning by the post, fully and in cypher. As I am told, however, the bearer will probably be in Richmond before the post, it may not be amiss to repeat to you that we have heard nothing from Carleton since our refusal of the passport to his secretary, and that we have authentic information from Europe, that insidious attempts have been made both on Doctor Franklin and Mr. Adams, by British emissaries, as well as tempting overtures employed to divide our ally from us. These machinations have served no other end than to expose the meanness and impotence of our enemy, and to supply fresh proofs of the indissoluble nature of the alliance. Mr. Adams begins to advance with considerable speed towards the object of his mission in Holland.

The action in the West Indies is still wrapt up in darkness. The enclosed paper contains a specimen of the obscure and contradictory advices which have alternately excited our hopes and our apprehensions.

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A copy of sundry resolutions of the House of Delegates, touching the exportation of tobacco in the flags, was laid before Congress yesterday by the Superintendent of Finance, and referred

to a committee. On a review of the doctrine of the ninth Article of Confederation, I believe, the right of the State to prohibit in the present case the exportation of her produce cannot be controverted. The States seem to have reserved at least a right to subject foreigners to the same imposts and prohibitions as their own citizens; and the citizens of Virginia are at present prohibited from such an exportation as is granted in favor of the British merchants. This is a very interesting point, and unless the division line between the authority of Congress and the States be properly ascertained, every foreign treaty may be a source of internal as well as foreign controversy. You will call to mind one now in negotiation, which may be affected by the construction of this clause in the Confederation. Congress have no authority to enter into any convention with a friendly power which would abridge such a right. They cannot have a greater authority with respect to a hostile power. On the other side, it is equally clear, that the State has no authority to grant flags for the exportation of its produce to the enemy. Armed vessels would not respect them, nor would they be more respected in the Courts of Admiralty. Unless Congress and the State, therefore, act in concert, no tobacco can be remitted to New York, and a further drain of specie must ensue. When the matter was first opened in Congress, the impression was unfavorable to the right of the States, and pretty free strictures were likely to be made on its opposition to the constitutional power of Congress. It became necessary, therefore, to recur to the law and the testimony, which produced an acquiescence in the contrary doctrine. Their sentiments, however, with regard to the policy and consistency of the resolutions, are very different. The last resolution in particular, compared with the preliminary doctrines, produces animadversions, which I need not recite to you. There are several reasons which make me regret much this variation between Congress and Virginia, of which a material one is that a great personage will be touched by it, since it originates in his act; and, since

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a conference between a committee and him and the Superintendent, he concurred in the expediency of granting the passports.